

STATE OF MARYLAND
Maryland Energy Administration

SMALL PROCUREMENT (Up to \$25,000)

Alternative Transportation and Infrastructure Consulting Services

PART I - PURPOSE

The Maryland Energy Administration (MEA) is an agency of the State of Maryland. MEA is authorized by State law to maximize energy efficiency, increase the use of renewable and clean energy sources, and improve the environment.

To maximize the investment opportunities provided by the American Recovery and Reinvestment Act (ARRA), MEA is soliciting technical assistance to design cost effective programs to accelerate Maryland energy independence from fossil fuels and imported oil in the transportation sector.

Specifically, MEA is seeking assistance in creating goals and designing programs that will achieve demonstrable results in 3 areas; alternative fuels, electric transportation, and consumer behavior modification.

MEA is requesting assistance in designing and/or implementing a program with the potential for market transformation. The program, which may receive \$2 million in funding, could utilize grants, loans and other mechanisms as appropriate.

PART II – GENERAL INFORMATION

A. Incurred Expenses

The State of Maryland will not be responsible for any costs incurred by any Offeror in preparing and submitting a quotation in response to this solicitation.

B. Contractor Responsibilities

The State of Maryland will enter into a contractual agreement with the selected Offeror only. The selected Contractor shall be responsible for all products and services required by this solicitation.

C. General Contract Conditions

Any contract resulting from this solicitation shall include the following contractual terms and conditions as demonstrated in the sample Contract, Exhibit B. (See generally, COMAR 21.05.07.06 (F)).

1. Parties to the Contract
2. Scope of the Contract
3. Length of the Contract

4. Compensation and Method of Payment
5. Contract Modification Clause
6. Dispute Clause
7. Maryland Law Prevails Clause
8. Non-Discrimination in Employment Clause
9. Termination for Default Clause
10. Termination for Convenience Clause
11. Delays and Extension of Time Clause

D. Compensation

The Contractor shall submit an invoice for the total hours worked for the period stated in the invoice for all activities performed as outlined in Section IV Scope of Work below. A proper original invoice shall be submitted to the Procurement Officer. Included with the invoice shall be a document detailing description of actual work performed and the hours associated with the work. The Contractor shall sign a statement on the detail that certifies the information is true and correct. Payments to the Contractor pursuant to any resulting contract shall be made no later than thirty (30) days after the State's receipt of a proper original invoice from the Contractor. Each invoice must reflect the Contractor's Federal Tax Identification Number, or Social Security Number.

E. Protest

The State provides avenues for any vendor to protect against the award or the proposed award of a contract. All protests should be filed in accordance with COMAR Title 21, State Procurement Regulations, Subtitle 10, Administrative and Civil Remedies.

F. Minority Business Enterprise Notice

Minority business enterprises are encouraged to respond to this published solicitation and to obtain certification. Questions relevant to certification should be directed to the Maryland Office of Minority Business Affairs at (410) 767-8232.

A Minority Business Enterprise Subcontracting Goal has not been established for this published solicitation.

G. Compliance with Law/Arrearages

By submitting an offer in response to this solicitation, the Offeror, if selected for award, agrees that it will comply with all federal, state, and local laws, rules, regulations and ordinances applicable to its activities and obligations under the contract. By submitting an offer in response to this solicitation, the Offeror represents and warrants that it is not in arrears with respect to the payment of monies due and owing the State of Maryland, or any department or unit thereof,

including but not limited to, the payment of taxes and employee benefits, and if selected for award, that it shall not become so in arrears during the term of the contract.

H. Acknowledgment of Amendments

Although no amendments to this solicitation are anticipated, this solicitation requires the acknowledgment of the receipt of all amendments, addenda, and changes issues.

PART III – QUALIFICATIONS

The Offeror's assigned personnel must have previous professional experience in the field of energy. The Offeror should:

- Have knowledge of the transportation sector; and
- Have experience with energy program design.

PART IV - SCOPE OF WORK

- A. Contractor shall work with designated MEA Staff to design programs that will achieve demonstrable results in the following areas; a) alternative fuels, b) electric transportation and c) consumer behavior modification. Specifically the scope of work should include:
- a. Evaluating the INSITE to 2020: Recommendations and Options for Maryland's Transportation Future as prepared by New West Technologies LLC in June 2008
 - b. Using knowledge of Maryland's current policies and assuming no change, provide recommendations for Maryland to adopt strategies that will lead to market transformation in each of the three identified areas.
 - c. In the process of deriving strategy recommendations, analysis should include but not be limited to:
 - i. Alternative fuels; including CNG, cellulosic ethanol, biodiesel and blends with respect to the evaluation and consideration of instate and imported bio resources, supply chain opportunities, existing companies, and proven technologies to match with the following potential sectors: a) military, b) commercial and c) residential.
 - ii. Electric Transportation; including plug-in hybrid vehicles, pure electric, renewable energy source for elective vehicles, truck stop electrification.
 - iii. Consumer Behavior Modification; including carpooling, car sharing telecommuting, promotion of local tourism. All to be considered in conjunction with Maryland's mass-transit Transportation Plan.

d. Deliverables should include:

- Summary of all three recommended strategies with goals, one for a) alternative, b) electric transportation and c) consumer behavior modification.
- Report outlining:
 - a. The rationale for the strategy
 - b. The method by which the strategy could be implemented and associated costs
 - c. The expected short-term, medium and long-term results
 - d. Suggested ways to evaluate indicators in monitoring progress towards expected results.
 - e. Potential involvement with other state agencies or entities within Maryland
 - f. Possible influence of federal policies on outcome
- Noted discoveries / realizations of policies that currently impede or act as a barrier to market transformation.

B. Timeline:

- | | |
|---------------------------------------|---------|
| a. RFP posted | 5/14/09 |
| b. Submissions due: | 5/20/09 |
| c. Award: | 5/22/09 |
| d. Kickoff meeting at MEA: | 5/28/09 |
| e. Executive Summary and Invoice due: | 6/29/09 |
| f. Oral presentation at MEA: | 6/30/09 |

C. Prior to release of any work product, the Contractor shall submit completed work to the Administration's designee for review and acceptance or rejection.

D. Contractor shall perform all work in a confidential manner and will not discuss any material with persons not under the supervision of MEA.

E. Pursuant to State Government Article 15-508, the Contractor shall not be eligible for award of any contracts that result from the drafting of specifications.

PART V – PROPOSAL FORMAT

All proposals shall be prepared in a straightforward and concise manner, delineating the Offeror's capabilities to satisfy the requirements of the PUBLISHED SOLICITATION and, specifically, the requirements for the tasks listed in Part IV, Scope of Work. **While there are no specific page limitations, please be concise.** Proposals will contain the following information:

A. **Letter of Transmittal** – A Letter of Transmittal on the Offeror's business stationery will accompany the Technical Proposal. The sole purpose of this letter is to provide a record of

transmittal of the proposal in addition to the receipt of all amendments, addenda, and changes issued. The letter should be brief and signed by an individual who is authorized to commit the vendor to the services and requirements stated within the published solicitation.

B. Technical Proposal

1. Title Page -Contact information for the organization and all personnel who will perform the work; phone; fax, email or web addresses, and Federal ID numbers.
2. Demonstration that the Offeror's personnel have the capacity to perform certain tasks listed in the Scope of Work and by time set in the Scope of Work.

C. Price Proposal – The Offeror shall prepare and sign a price proposal. The price proposal shall be in the form of a single hourly rate which shall apply to all Contractor assigned personnel for the duration of the contract. Financial information submitted shall be irrevocable for a period of ninety (90) days after the due date of the proposal.

PART VI – EVALUATION CRITERIA

A review panel consisting of MEA staff will review proposals and may interview Offerors. All proposals that are in compliance with requirements and qualifications will be evaluated based on the following criteria. Technical is more important than price.

1. Offeror's Experience
2. Demonstration of Qualifications
3. Ability to maintain Deliverable Schedule requested
4. Price

If, upon review of the proposals, the review panel has further questions, Offerors may be invited for oral presentations.

PART VII – BASIS OF AWARD

MEA may, at its sole option, enter into discussions with each responsible Offeror and ask the Offerors to submit "best and final offers" before making an award. Thereafter, the award of the contract will be made to the responsible Offeror whose proposal is determined to be most advantageous to the State.

Electronic submissions of the Technical and Price Proposals in a portable document format (PDF, must be compatible with Adobe Acrobat Reader) are due to the attention of Maria Ulrich (mulrich@energy.state.md.us) at the Maryland Energy Administration by May 20, 2009 by 1 PM. A return e-mail will acknowledge receipt of the proposal.

Maria Ulrich
Maryland Energy Administration
1623 Forest Drive Suite 300
Annapolis, MD 21403

Please address your questions to Maria Ulrich, (410) 260-7752.

ATTACHMENTS

ATTACHMENT A– Is the State’s Contract. It is provided with the RFP for informational purposes and is not required at proposal submission time. However, it must be completed, signed and returned by the selected Offeror to the Procurement Officer expeditiously upon notification of proposed Contract award.

ATTACHMENT B –Non-Disclosure Agreement.

ATTACHMENT C- Conflict of Interest Affidavit

ATTACHMENT A – CONTRACT

Alternative Transportation and Infrastructure Consulting Services

THIS CONTRACT, entered into this _____ day of _____, 2009,
by and between the

**STATE OF MARYLAND
Maryland Energy Administration
1623 Forest Drive, Suite 300
Annapolis, Maryland 21403**

hereinafter ("Administration")

and

INSERT INFORMATION

hereinafter ("Contractor"):

WHEREAS, this procurement has been determined to be a small procurement of \$25,000 or less and issued in accordance with the requirements of State Procurement Regulations (COMAR 21.05.07 et.seq.); and

WHEREAS, the Administration has chosen the Contractor, and the Contractor has agreed to perform the work herein and be bound by the terms of this Contract;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained be it agreed by and between the parties hereto as follows:

ARTICLE I - NATURE OF CONTRACT

This Contract is for services the value of which is up to \$25,000 and is generally governed by the Small Procurement Procedures established pursuant to Title 21 of the Code of Maryland Regulations, particularly COMAR 21.05.07, and the State Finance and Procurement Article of the Annotated Code of Maryland.

ARTICLE II - SCOPE OF WORK

To this end, the Contractor agrees to carry out the work described in Exhibit A, Scope of Work which is attached hereto and is expressly incorporated herein and made a part of this Contract.

ARTICLE III - TERM

The term of this Contract shall be from XXX, through XXXXXX, 2009. No work may be initiated under this Contract until the contractor has been instructed to proceed by the Administration.

ARTICLE IV - PAYMENT

The scope of work set forth above shall be performed during the term of this Contract for up to but no more than \$25,000.00 Dollars. The total price reflects completion of each task specified in the Scope of Work. Each task shall be completed as specified in the Scope of Work. The Contractor shall submit invoices for all costs incurred in accordance with a standard format including but not limited to the Contractor's Federal Tax Identification Number of XXXXXXXXXX, and a Contract Identifying Number set out above. Invoices shall be due and payable within 30 days of receipt by the Administration.

To this end, the Contractor agrees to carry out the work described in its Proposal Responding to the Administration's Request for Proposals, submitted on DATE SUBMITTED, which is attached hereto and is expressly incorporated herein and made a part of this Contract.

To the extent that any terms or conditions contained in the incorporated Proposal from the Contractor conflict with the terms and conditions contained in the Administration's contract form, the terms in the Administration's Contract shall take precedence and be controlling.

ARTICLE V - INDEPENDENT CONTRACTOR

The Contractor is not an employee of the Administration but is an independent contractor as that term is normally defined. The Contractor shall be responsible for providing all supplies and materials necessary for performance of all work under the Contract, and for withholding any taxes and social security payments due under the Contract. The Contractor is not an agent of the State of Maryland or the Administration and cannot commit the State or the Administration

to any expenditure of funds or enter into any contractual obligation on behalf of the State.

ARTICLE VI - WARRANTY

The Contractor agrees to prosecute all work under this Contract continuously and diligently, and to meet all milestones contained in the Scope of Work. The Contractor shall be responsible for the supervision and inspection of, and the technical accuracy and coordination of all data and work pursuant to this Contract, and shall produce a product meeting professional standards of quality and methodology.

ARTICLE VII - CHANGES

This Contract may be amended only with the written consent of both parties. Amendments may not change significantly the scope of the Contract (including the Contract price).

ARTICLE VIII - DISPUTES

Disputes arising under this Contract shall be governed by State Finance and Procurement Article, Title 15, Subtitle 2, Part III, Annotated Code of Maryland, and by COMAR 21.10 Administrative and Civil Remedies. Pending resolution of a dispute, the Contractor shall continue to perform this Contract, as directed by the Procurement Officer.

ARTICLE IX - TERMINATION FOR DEFAULT

If the Contractor does not fulfill obligations under this contract or violates any provision of this Contract, the State may terminate the Contract by giving the Contractor written notice of termination. Termination under this paragraph does not relieve the Contractor from liability for any damages caused to the State. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

ARTICLE X - TERMINATION FOR CONVENIENCE

The State may terminate this Contract, in whole or in part, without showing cause upon prior written notice to the Contractor specifying the extent and the effective date of the termination. The State shall pay all reasonable costs associated

with this Contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor may not be reimbursed for any anticipatory profits which have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

ARTICLE XI - NONDISCRIMINATION IN EMPLOYMENT

The Contractor shall comply with the nondiscrimination provisions of federal and Maryland law.

ARTICLE XII - ANTI-BRIBERY AFFIDAVIT

The Contractor certifies that, to the Contractor's best knowledge, neither the Contractor; nor (if the Contractor is a corporation or partnership) any of its officers, directors, or partners; nor any employee of the Contractor who is directly involved in obtaining contracts with the State or with any county, city, or other subdivision of the State, has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the United States.

ARTICLE XIII - CORPORATE REGISTRATION

Pursuant to 7-201 et seq of the Corporation and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 W. Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation.

ARTICLE XIV - TERMINATION FOR NON-APPROPRIATION

If funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this Contract shall be terminated automatically as of the beginning of the fiscal year for which funds are not available. The Contractor may not recover anticipatory profits or costs incurred after termination.

ARTICLE XV - MARYLAND LAW PREVAILS

The law of Maryland shall govern the interpretation and enforcement of this Contract.

ARTICLE XVI - INDEMNIFICATION

The State shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with the performance or operation of this Contract.

ARTICLE XVII - SPECIFICATIONS

All materials, equipment, supplies or services shall conform to Federal and State laws and regulations and to the specifications contained in solicitation.

ARTICLE XVIII - CONFLICT OR INTEREST LAW

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval, disapproval, recommendation, advice, or investigation in any contract or other matter which he, his spouse, parent, minor child, brother, or sister, has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a part, unless such officer, employee, or agent has previously complied with the provisions of State Government Article, Section 15-501 et seq of the Annotated Code of Maryland.

ARTICLE XIX - NON-HIRING OF EMPLOYEES

No employee of the State of Maryland or any department, commission, agency or branch therefore whose duties as such employee include matters relating to or affecting the subject matter of this contract shall, while such employee, become or be an employee of the party or parties hereby contracting with said State of Maryland or any department, agency or branch thereof, (COMAR 21.07.01.05).

ARTICLE XX - ASSIGNMENT

This Contract and the monies which may become due hereunder are not assignable except with the prior written approval of the Maryland Energy Administration's Procurement Officer.

ARTICLE XXI - CONTINGENT FEES

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bonafide employee or agent working for the contractor, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bonafide employee or agent, any fee or other consideration contingent on the making of this agreement.

ARTICLE XXII - EXTENSION

The parties may extend this contract, under the same terms and conditions, by a mutual agreement in writing.

ARTICLE XXIII - POLITICAL CONTRIBUTION DISCLOSURE

The Contractor shall comply with the provisions of Article 33, Sections 14-101 through 14-104 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies, or a political subdivision of the State, during a calendar year under which the person receives in the aggregate \$10,000 or more, shall on or before February 1 of the following year file with the Secretary of State of Maryland certain specified information to include disclosure of political contributions in excess of \$500 to a candidate for elective office in any primary or general election.

ARTICLE XXIV - COMPLIANCE WITH LAWS

The Contractor hereby represents and warrants that:

A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

ARTICLE XXV - MERGER

This Contract embodies the whole agreement of the parties. There are not promises, conditions, or obligations referring to the subject matter, other than those contained herein or incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed this Contract by causing the same to be signed on the day and year first above written.

CONTRACTOR

Witness

By _____ (SEAL)
Name, Title

**STATE OF MARYLAND
MARYLAND ENERGY**

ADMINISTRATION

Witness

By _____ (SEAL)
Malcolm Woolf
Director

THIS SMALL PROCUREMENT CONTRACT FORM (Rev. 3/98) HAS BEEN APPROVED IN ACCORDANCE WITH COMAR 21.03.02.02 BY THE ATTORNEY GENERAL'S OFFICE OF THE MARYLAND ENERGY ADMINISTRATION. ANY ADDITIONS OR MODIFICATIONS TO, OR DELETIONS FROM, THIS FORM MUST BE APPROVED BY THE ATTORNEY GENERAL'S OFFICE BEFORE SIGNATURE OR PERFORMANCE OF ANY WORK UNDER THIS CONTRACT. UNAUTHORIZED CHANGES, MODIFICATIONS, OR DELETIONS WILL RENDER THE ADMINISTRATION'S OBLIGATIONS UNDER THIS CONTRACT VOIDABLE AT THE ADMINISTRATION'S ELECTION.

ATTACHMENT B - NON-DISCLOSURE AGREEMENT

THIS AGREEMENT ("Agreement") is made this ____ day of _____, 200__, by and between the State of Maryland (hereinafter referred to as "the State"), acting by and through its Maryland Energy Administration (hereinafter referred to as the "Department"), and _____, a corporation with its principal business offices located at _____ (hereinafter referred to as "Offeror").

RECITALS

WHEREAS, Offeror intends to submit a proposal in response to RFP Alternative Transportation and Infrastructure Consulting Services (the "RFP") for the Maryland Energy Administration; and

WHEREAS, in order for the Offeror to submit such a proposal, it will be necessary for the State to provide the Offeror with access to certain confidential information (collectively, the "Confidential Information").

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the Offeror's proposal to the RFP (hereinafter referred to as the "Proposal"), and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. **Recitals.** The Recitals are not merely prefatory but are an integral part hereof.
2. **Offeror's qualifications.** Offeror represents and warrants that:
 - A. It is qualified to do business in the State and that it will take such actions, from time to time hereafter, as may be necessary to remain so qualified during the period covered by this Agreement;
 - B. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the period covered by this Agreement;
 - C. It is in compliance with all federal, State and local laws, regulations, and ordinances applicable to its business and it is not aware of any actual or threatened actions, claims, suits, orders, or other matters that would prevent or limit its ability to satisfactorily and fully perform its obligations under this Agreement or under any subsequent agreement that it may enter into with the State in connection with its Proposal; and
 - D. It is the correctly named and identified entity that intends to submit the Proposal and it is not controlling, controlled by, or under common control

with the entity that intends to submit the Proposal. If the Proposal will be submitted by a joint venture or any other group of separate business entities, each entity comprising such group has been clearly identified in and has executed this Agreement.

3. Term of Agreement. The term of this Agreement shall commence on the date it is fully signed by both parties and shall continue thereafter until the earlier to occur of: (i) three (3) years following the return of the Confidential Information in accordance with Section 6 of this Agreement; (ii) receipt of written notice given by the State to Offeror terminating this Agreement; or (iii) the date upon which the terms of this Agreement are expressly superseded by the confidentiality provisions of any subsequent agreement which the parties may enter into in connection with the Proposal. If all Confidential Information is not returned to the State in accordance with Section 6 of this Agreement, then this Agreement shall continue in full force and effect until such time as all Confidential Information is returned to the State and the State acknowledges its receipt in writing.

4. What constitutes "Confidential Information". Confidential Information means any and all information provided by or made available by the State to Offeror in connection with the Proposal, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that Offeror views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State for Offeror to prepare and submit its Proposal.

5. Use of Confidential Information. In consideration of the State's allowing Offeror access to the Confidential Information:

A. Offeror hereby agrees to hold the Confidential Information in trust and in strictest confidence, and to take all measures necessary to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

B. Offeror shall not, without the State's prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of preparing its Proposal. Offeror shall limit access to Confidential Information to its employees and agents ("Offeror's Personnel") who have a demonstrable need to know such Confidential Information in order to prepare the Proposal and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of Offeror's Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute and date Exhibit A next to their name and by doing so agrees to be subject to the terms and conditions of this Agreement to the same extent as Offeror. If Offeror intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the preparation of the Proposal or who will

otherwise have a role in performing any aspect of the Proposal, Offeror shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent as it may deem appropriate in its sole and absolute subjective discretion.

6. Return of Confidential Information. Offeror shall return all Confidential Information to the Department within five (5) business days of the State's acceptance of Offeror's Proposal. If Offeror does not submit a Proposal, Offeror shall return the Confidential Information to the Department within 30 days of receiving the material. All Confidential Information returned to the State shall be accompanied by the Certification that is attached hereto and made a part hereof as Exhibit B and shall be signed by an officer of Offeror authorized to bind the Offeror.

7. Liability for Confidential Information. Offeror acknowledges that any failure by Offeror or Offeror's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, Offeror and each of Offeror's Personnel agree that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Offeror and each of Offeror's Personnel consent to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and/or to seek damages from Offeror and/or each of Offeror's Personnel, as applicable, for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by Offeror or any of Offeror's Personnel to comply with the requirements of this Agreement, Offeror and such Offeror's Personnel shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and/or costs.

8. Unauthorized Use. Offeror shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of Confidential Information by any of Offeror's Personnel or Offeror's former Personnel. Offerer shall, at Offeror's expense, cooperate with the State in seeking injunctive or other equitable relief against any such person.

9. Governing law. This Agreement shall be governed by the laws of the State of Maryland.

10. False and fraudulent statements. Offeror acknowledges that pursuant to Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland a person may not willfully make a false or fraudulent statement or representation of a material fact in connection with a procurement contract. Persons making such statements are guilty of a felony and on conviction subject to a fine of not more than \$20,000 and/or imprisonment not exceeding 5 years or both. Offeror further

acknowledges that this Agreement is a statement made in connection with a procurement contract.

11. **Signing authority for Offeror.** The individual signing below on behalf of Offeror warrants and represents that s/he is fully authorized to bind Offeror to the terms and conditions specified in this Agreement. The individual signing below acknowledges that a breach of this warranty and representation may result in personal liability.

12. **Other obligations.** The parties further agree that, unless otherwise agreed in writing: (a) this Agreement sets forth the entire agreement and understanding between the parties with respect to the subject matter hereof, and none of the terms of this Agreement may be amended or modified except by a written instrument signed by both parties; (b) the State may waive any rights under this Agreement only by written waiver duly signed by the State, and no failure by the State to exercise or delay in exercising a right under this Agreement shall constitute a waiver of such right; (c) the rights and obligations of Offeror may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State; (d) the State makes no representations or warranties as to the accuracy or completeness of any Confidential Information; (e) the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement; (f) all notices under this Agreement must be in writing and shall be deemed to have been delivered to and received by a party, and will otherwise become effective, on the date of actual delivery thereof (by personal delivery, express delivery service or certified mail) to the Notice Address of such party set forth below; and (g) signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures.

14. **Notices.** All notices hereunder shall be in writing and either delivered personally, by express delivery, or sent by certified or registered mail, postage prepaid as follows:

If to the State:
Maryland Energy Administration
1623 Forest Drive, Suite 300
Annapolis, Maryland 21403
Attention: Maria Ulrich

If to the Offeror:

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

STATE OF MARYLAND

OFFEROR

By: MARYLAND ENERGY
ADMINISTRATION

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

**LIST OF OFFEROR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN
ACCESS TO THE CONFIDENTIAL INFORMATION**

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A)	Signature	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

EXHIBIT B

**CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL
INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Agreement by and between the State of Maryland and _____ (“Offeror”) dated _____, 200__ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Offeror to this affirmation.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, HAVING MADE DUE INQUIRY.

DATE: _____

NAME OF OFFEROR: _____

BY: _____
(Signature)

TITLE: _____
(Authorized Representative and Affiant)

ATTACHMENT C- CONFLICT OF INTERES AFFIDAVIT/DISCLOSURE

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, Offeror, Contractor, consultant, or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

C. The bidder or Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The bidder or Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date:_____By:_____
(Authorized Representative and Affiant)